

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

November 19, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 08HD-213

**HAWAII**

Withdrawal from General Lease No. S-4474, Parker Ranch, Inc., Set Aside to the Division of Forestry and Wildlife for the Koaia Forest Sanctuary and Issuance of a Management Right-of-Entry, at Puu Kawawai, Panoluukia and Kapia, South Kohala, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 6-2-01:03

**APPLICANT:**

Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW).

**LEGAL REFERENCE:**

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

**LOCATION:**

Portion of Government lands situated at Puu Kawawai, Panoluukia and Kapia, South Kohala, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 6-2-01:03, as shown on the attached maps labeled Exhibit A.

**AREA:**

375.00 acres, more or less.

**ZONING:**

State Land Use District:     Agriculture  
County of Hawaii CZO:       A-20A

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered under General Lease No. S-4474 to Parker Ranch, Inc., for pasture use. Lease expires on February 28, 2011.

PURPOSE:

Addition to Koaia Tree Sanctuary.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. To the extent Chapter 343's requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Complete a survey of the proposed boundary alignment for the withdrawn area at its own cost;
2. Provide survey maps and descriptions according to State DAGS standards at Applicant's own cost;
3. Process and obtain subdivision of the withdrawn area at Applicant's own cost;
4. Fence off the withdrawn area at its own cost along the agreed alignment; and
5. Pay to the Lessee under General Lease No. S-4474 the fair market value of any improvements made by the Lessee in the withdrawn area that have been approved by the State, in accordance with the terms of the lease.

REMARKS:

General Lease No. S-4474 was awarded to Richard Smart on August 28, 1975 at public auction for a period of 35 years. A portion of this lease was withdrawn from the lower section for public utility purposes by the Board at its meeting of February 8, 1980 under agenda item F-5. The land that was withdrawn is approximately 15,000 square feet along the Kawaihae Road and is being utilized as an electric substation site.

At its meeting of March 27, 1997, Item D-2, the Board approved the assignment of General Lease No. S-4474, from Richard Smart (deceased) Assignor, to Parker Ranch, Inc., Assignee.

The Division of Forestry and Wildlife manages approximately 13.47 acres of land as the Koaia Tree Sanctuary set aside to DOFAW under Governor's Executive Order No. 1409. See Exhibit A attached. DOFAW is requesting the set-aside of approximately 375 additional acres from lands currently encumbered by GL S-4474, which are adjacent to the original Koaia Tree Sanctuary. The current Lessee has been contacted and is in agreement of the proposed use and withdrawal of land with the understanding that DOFAW will be responsible for the survey and fencing off of the excluded area. See Exhibit B attached.

DOFAW has advised staff that there are no improvements on the area to be withdrawn from GL S-4474 that would require compensation to be paid to the Lessee pursuant to the terms of the lease. To the extent the Lessee asserts any claim for compensation with respect to the withdrawn area, staff has included a requirement above that Applicant be responsible for the payment of any such compensation.

Various governmental agencies were solicited for comments and the results are included below:

STATE AGENCIES	COMMENTS	COUNTY AGENCIES	COMMENTS
Department of Health	No response	Planning Department	No comment
Dept. of Hawaiian Homes Land	No comment	Dept. of Public Works	No comment
DLNR Historic Preservation	No comment	Dept. of Environmental Management	No comment
DLNR CWRM	No comment	Fire Department	No comments
DLNR DOFAW	No response	Police Department	No objection
Department of Transportation	Currently no access from highway. If access is proposed, need to contact DOT Highways for plan approval	OTHER AGENCIES	COMMENTS
		Corps of Engineers	<i>No response</i>
		Office of Hawaiian Affairs	<i>No response</i>

DOFAW is requesting an early right-of-entry onto the lease land so that it may begin the process of surveying the proposed land to be set aside.


RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

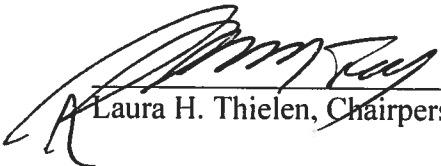
1. Authorize the withdrawal of approximately 375 acres from General Lease No. S-4474, subject to the following:
  - A. Upon withdrawal, rents under General Lease No. S-4474 shall be reduced in proportion to the area of the premises withdrawn;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Grant an immediate management right-of-entry to the Division of Forestry and Wildlife, its consultants, contractors and/or persons acting for or on its behalf, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current right-of-entry form as may be amended from time to time;
  - B. This management right-of-entry is effective upon Land Board approval and shall terminate upon the issuance of the executive order document; and

- C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,

  
\_\_\_\_\_  
for Gordon C. Heit  
Land Agent

APPROVED FOR SUBMITTAL:

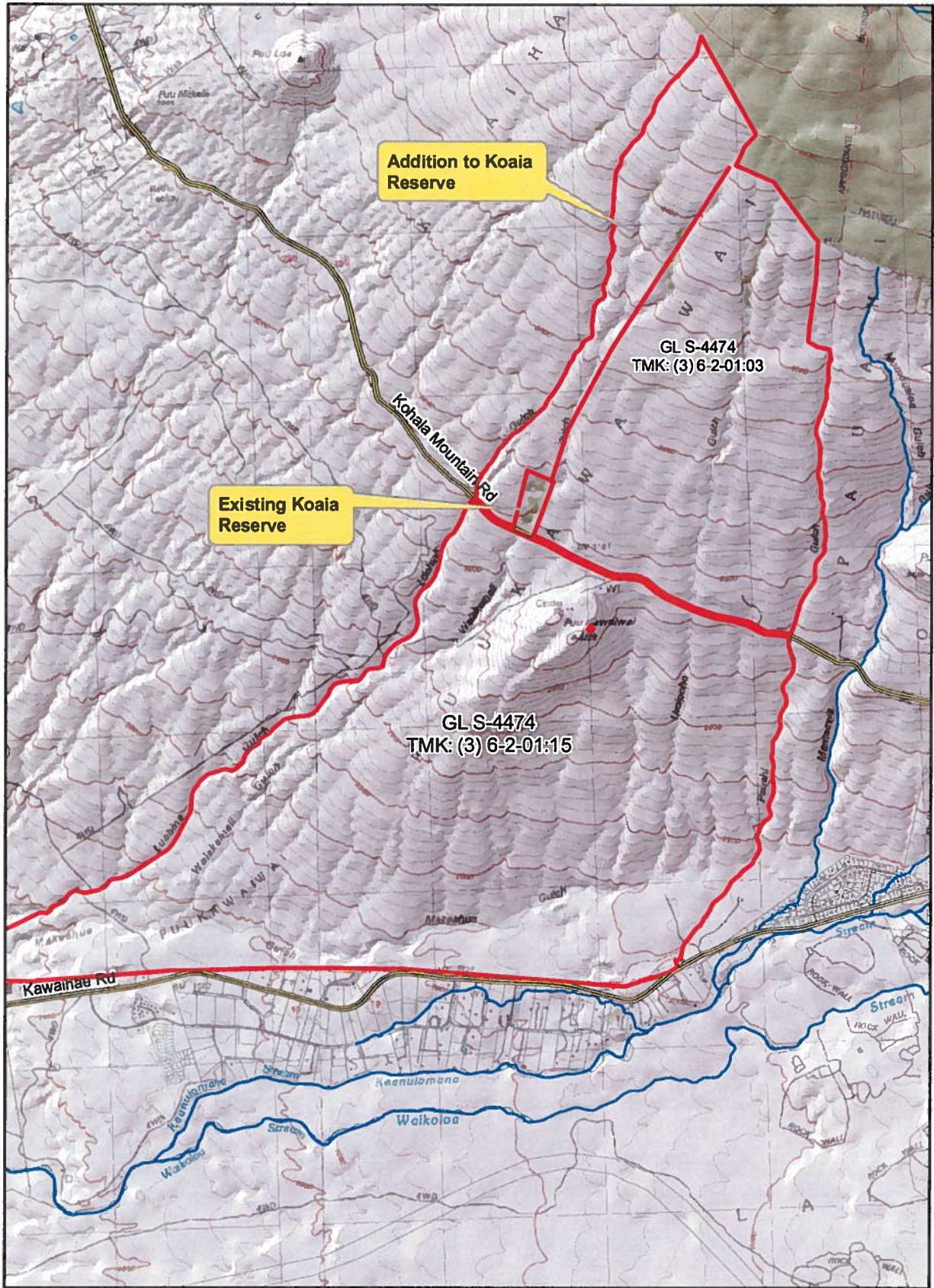
  
\_\_\_\_\_  
Laura H. Thielen, Chairperson

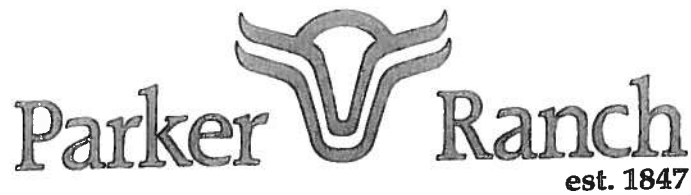
**TMK: 3<sup>RD</sup>/6-2-01:03**

**Original Koiaia Tree Sanctuary  
under Executive Order No. 1409  
13.47 acres**



GL S-4474 Parker Ranch





July 3, 2007

Ms. Lisa Hadway, Manager  
Natural Areas Reserves  
Division of Forestry and Wildlife  
State of Hawaii  
P.O. Box 4849  
Hilo, Hi 96720

RECEIVED  
LAND DIVISION  
HILLO, HAWAII

2007 SEP 12 A 10:43

Re: GL #S-4474


Dear Lisa,

This will confirm our conversation of June 28, 2007 with Nick Agorastos and your letter of June 29, 2007 regarding the withdrawal of approximately 375 acres by the State of Hawaii from the above lease to Parker Ranch.

It is our understanding that the lease rent will be reduced by the acreage withdrawn and that the State will pay for the survey and fencing costs and other associated costs.

Please keep us informed as to the progress of the withdrawal.

Regards,

  
Michael C. Bryan, Vice President  
Livestock Operations